



BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A-580-896]**

**Polyethylene Terephthalate Resin from the Republic of Korea: Affirmative Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of polyethylene terephthalate (PET) resin from the Republic of Korea are being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act).

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Sean Carey or Mark Hoadley, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3964 or (202) 482-3148, respectively.

**SUPPLEMENTARY INFORMATION:**

Background

On May 4, 2018, Commerce published in the *Federal Register* the preliminary determination of sales at LTFV in the antidumping duty (AD) investigation of PET resin from

the Republic of Korea.<sup>1</sup> Commerce invited comments from interested parties on the *Preliminary Determination*.<sup>2</sup> The petitioners<sup>3</sup> and SK Chemicals Co., Ltd. (SK Chemicals) filed case and rebuttal briefs.<sup>4</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>5</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

### Scope of the Investigation

The product covered by this investigation is polyethylene terephthalate resin from Taiwan. Commerce did not receive any scope comments subsequent to the *Preliminary*

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<sup>1</sup> See *Polyethylene Terephthalate Resin from the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19694 (May 4, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> *Id.* at 19694; see also Memorandum, "Briefing Schedule in the Antidumping Duty Investigation of Polyethylene Terephthalate Resin from the Republic of Korea," dated August 10, 2018.

<sup>3</sup> DAK Americas, LLC Indorama Ventures USA, Ind., M&G Polymers USA, LLC, and Nan Ya Plastics Corporation, America (collectively, the petitioners).

<sup>4</sup> See Petitioners' submission, "Polyethylene Terephthalate Resin from South Korea; Petitioners' Case Brief" dated August 17, 2018 (Petitioners' Case Brief); also SK Chemicals' submission, "Polyethylene Terephthalate Resin from the Republic of Korea, Case Brief of SK Chemicals," dated August 17, 2018 (SK Chemicals' Case Brief); also Petitioners' submission, "Polyethylene Terephthalate Resin from South Korea; Petitioners' Rebuttal Brief" dated August 22, 2018 (Petitioners' Rebuttal Brief); also SK Chemicals' submission, "Polyethylene Terephthalate Resin from the Republic of Korea, Rebuttal Brief of SK Chemicals" dated August 22, 2018 (SK Chemicals' Rebuttal Brief).

<sup>5</sup> See Memorandum, "Issues and Decision Memorandum for the Affirmative Final Determination in the Less-Than-Fair-Value Investigation of Polyethylene Terephthalate Resin from the Republic of Korea; and, Final Determination of Critical Circumstances, in Part," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

*Determination* and, therefore, the scope has not been updated since the *Preliminary Determination*. For a complete description of the scope of this investigation, see Appendix I.

#### Period of Investigation

The period of investigation is July 1, 2016, through June 30, 2017.

#### Verification

As provided in section 782(i) of the Act, we conducted cost and sales verifications of mandatory respondent, SK Chemicals Co., Ltd. (SK Chemicals) and its wholly-owned U.S. affiliate SK Chemicals America, Inc. (SKCA), between May 16, 2018, and July 10, 2018. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.

#### Final Affirmative Determination of Critical Circumstances, in Part

In the *Preliminary Determination*, in accordance with section 733(e)(1) of the Act and 19 CFR 351.206, Commerce found that critical circumstances existed for Lotte Chemical Corp. (Lotte Chemical), TK Chemical Corp. (TK Chemical), and “all other” producers or exporters not individually examined and found that critical circumstances did not exist for SK Chemicals. Commerce received no comments concerning the preliminary critical circumstances determination. For this final determination, Commerce continues to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist for Lotte Chemical and TK Chemical. Moreover, for this final determination, we determine that critical circumstances exist for SK Chemicals, but do not exist for “all other” producers or exporters not individually examined.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix II.

### Use of Facts Otherwise Available and Adverse Inferences

For purposes of this final determination, Commerce relied on facts otherwise available with adverse inferences when calculating the margin for Lotte Chemical and TK Chemical, pursuant to sections 776(a)(2)(A)-(C) and 776(b) of the Act. For further information regarding the use of facts available with adverse inferences, *see* the Issues and Decision Memorandum.

### Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

### All-Others Rate

Section 735(c)(5)(A) of the Act provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated an individual estimated weighted-average dumping margin for SK Chemicals, the only cooperative individually examined exporter/producer in this investigation with shipments of subject merchandise during the POI. Because the only individually calculated dumping margin is not zero, *de minimis*, or based

entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for SK Chemicals is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

#### Final Determination Margins

Commerce determines that the following estimated weighted-average dumping margins exist:

<b>Exporter/Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
SK Chemicals Co., Ltd.	8.23
Lotte Chemical Corp., Regd.	101.41
TK Chemical Corp.	101.41
All-Others	8.23

#### Disclosure

We will disclose to interested parties the calculations performed in this final determination within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

#### Continuation of Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, for this final determination, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all entries of PET resin, as described in the Appendix I to this notice, produced or exported by Lotte Chemical and TK Chemical; and to begin the suspension of liquidation of all entries of PET resin, produced or exported by SK Chemicals, which were entered, or withdrawn from warehouse, for consumption on or after February 3, 2018 (90 days prior to the date of publication

of the *Preliminary Determination*), because we find that critical circumstances exist with regard to imports produced or exported by Lotte Chemical, TK Chemical, and SK Chemicals.

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. CBP to continue to suspend liquidation of all appropriate entries of PET resin from Korea, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after May 4, 2018, the date of publication of the *Preliminary Determination*.

Furthermore, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2)(B) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from the Republic of Korea no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be

terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties, subject to administrative protective order (APO), of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act, 19 CFR 351.206(e) and 19 CFR 351.210(c).

Dated: September 17, 2018.

**Gary Taverman,**

*Deputy Assistant Secretary*

*for Antidumping and Countervailing Duty Operations,*

*performing the non-exclusive functions and duties of the*

*Assistant Secretary for Enforcement and Compliance.*

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.



## **Appendix II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. SUMMARY
- II. BACKGROUND
- III. SCOPE OF THE INVESTIGATION
- IV. FINAL AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART
- V. CHANGES SINCE THE PRELIMINARY DETERMINATION
- VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES
- VII. DISCUSSION OF THE ISSUES

Comment 1: Whether Commerce Should Make an Adjustment for Partial Refunds of U.S. Duties.

Comment 2: Allocating Company-Wide Research and Development (R&D) Expenses to Separate Divisions

Comment 3: Including Financial Income Gains on Derivatives and Long-Term Interest Income in Interest Expenses (INTEX)

Comment 4: Reported Affiliated Input Prices

- VIII. RECOMMENDATION

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